

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

AARON DOYLE,

Plaintiff,

v.

WILLIAM GONZALES; DAN W.
DOPPS; SCOTT D. JONES; and
the CITY OF QUINCY,
WASHINGTON,

Defendants.

NO. CV-10-0030-EFS

**ORDER GRANTING AND DENYING IN
PART DEFENDANTS' MOTION TO
REMOVE PROTECTIVE ORDER ON
SIERRA COUNTY DOCUMENTS**

A telephonic hearing occurred in the above-captioned matter on October 4, 2011. Plaintiff Aaron Doyle was represented by Garth Dano. Defendants William Gonzales, Dan Dopps, Scott Jones, and the City of Quincy ("City") (collectively referred to as "Defendants") were represented by Robert Christie. Before the Court was Defendants' Motion to Remove Protective Order on Sierra County Documents, ECF No. [447](#).¹

¹ Plaintiff's counsel suggests that Local Rule 37.1(b)'s meet-and-confer requirement was not satisfied. Because an expedited hearing on this motion is needed in light of the upcoming discovery and dispositive-motion-filing deadlines, the Court heard the motion. However, counsel are encouraged to take all steps necessary to resolve a dispute, if

1 After reviewing the submitted material and relevant authority and hearing
2 from counsel, the Court is fully informed. This Order memorializes and
3 supplements the Court's oral ruling granting and denying in part
4 Defendants' motion: the Sierra County records may be utilized as
5 discussed below.

6 The documents at issue are Mr. Doyle's records from when he was
7 employed as a Sierra County, California deputy sheriff from 2000 to 2006,
8 including termination and administrative-appeal records. Mr. Doyle
9 contended that these documents should not be produced in this lawsuit;
10 Defendants disagreed. The parties filed motions supporting their
11 respective positions before the U.S. District Court in the Eastern
12 District of California—the court having jurisdiction over the subpoena
13 duces tecum that Defendants issued to Sierra County. U.S. Magistrate
14 Judge Gregory Hollow ruled that these records' confidentiality protection
15 is lifted for purposes of the lawsuit before this Court because the
16 records appear relevant to Defendants' after-acquired-evidence
17 affirmative defense. ECF No. [449](#) Ex. B. Judge Hollow ordered Sierra
18 County to produce Mr. Doyle's employment records to defense counsel for
19 "attorney's eyes only" and deferred to this Court for the determination
20 of their public disclosure. *Id.* Ex. A. Pursuant to the parties'
21 agreement, defense counsel scanned the disclosed records onto a disk.

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23
24 possible, before seeking Court intervention. And even after a motion's
25 filing, counsel are encouraged to discuss an amicable resolution if
26 possible.

1 Defendants now ask the Court to allow disclosure of these records
2 to the parties, their attorneys and legal staff, and any retained experts
3 for whom it is necessary to review the records to form an expert opinion.
4 In regards to the future filing or court use of any of these records,
5 Defendants propose that the party seeking to file or use the record be
6 required to file a motion establishing the need for sealing the record.

7 Mr. Doyle does not oppose disclosing the records to the limited
8 group of individuals that Defendants propose. Rather, Mr. Doyle
9 recommends that the records be presumed confidential and therefore they
10 are to be filed under seal, alleviating the need to file a motion to
11 seal.

12 Rule 26(c) allows the Court, upon motion, to "issue an order to
13 protect a party or person from annoyance, embarrassment, oppression, or
14 undue burden or expense" upon a showing of good cause. Fed. R. Civ. P.
15 26(c). Personnel and employment files, especially those of law-
16 enforcement officers, are generally considered confidential material
17 whose disclosure is limited. See *Hunt v. FBI*, 972 F.2d 286, 288 (9th
18 Cir. 1992); *In re Dep't of Investigation of City of New York*, 856 F.2d
19 481, 484 (2d Cir. 1988).

20 Here, however, a federal magistrate judge has already balanced Mr.
21 Doyle's privacy interests and Defendants' need for disclosure of this
22 relevant information and determined that disclosure is required. And the
23 Court agrees with the parties that these materials may be shared with the
24 parties, counsel and their legal staff, and experts who must rely on
25 these documents to form an expert opinion; likewise, these materials may
26 be utilized at the deposition of these individuals. Yet, these documents

1 are still sensitive and the Court will not permit public filing or use
2 of any record that was disclosed by Sierra County pursuant to, and
3 discovered only as a result of, Judge Hollow's order, without 1) the
4 parties reaching agreement that the record may be publically filed or
5 used or 2) the Court ruling that such a record may be publically filed
6 or used. Accordingly, if a party seeks to utilize such a record, either
7 to support or respond to a motion or at trial, counsel must first provide
8 opposing counsel with at least **seven calendar days** to reach an agreement
9 as to whether public disclosure is appropriate. If counsel are unable
10 to reach agreement, that party is to file the record(s) as a proposed
11 sealed document and then a separate motion and memorandum articulating
12 the party's position regarding disclosure of the record(s). This ruling
13 does not impact a party's ability to seek a separate protective order on
14 other grounds.

15 For the reasons given above and at the hearing, **IT IS HEREBY**
16 **ORDERED:**

17 1. Defendants' Motion to Remove Protective Order on Sierra County
18 Documents, **ECF No. [447](#)**, is **GRANTED and DENIED IN PART**.

19 2. Any record that was disclosed by Sierra County pursuant to, and
20 discovered only as a result of, Judge Hollow's order, shall not be:

21 a. disseminated to anyone other than the parties of this
22 litigation, their attorneys and legal staff, and any retained experts for
23 whom it is necessary to review the record in order to form an expert
24 opinion;

S/ Edward F. Shea
EDWARD F. SHEA
United States District Judge